

Message Text

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ACTION EUR-12

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TO SECSTATE WASHDC 7800

INFO AMEMBASSY BONN

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UNCLAS LISBON 4655

E.O. 11652: N/A

TAGS: EFIN, EINV, PO

SUBJ: GOP APPROVES INDEMNIZATION RULES

REF: LISBON 4296

1. REVOLUTIONARY COUNCIL HAS APPROVED DECREE 528/76 OF JULY 7 EMBODYING PRINCIPLES OF INDEMNIZATION FOR NATIONALIZED COMPANIES. PREAMBLE STATES INDEMNIZATION WILL SAFEGUARD PRIVATE INTERESTS (ESPECIALLY SMALL STOCKHOLDERS) AND HELP ECONOMIC RECUPERATION BY PROMOTING SAVINGS.

2. PRINCIPAL FEATURES OF DECREE INCLUDE:

A. PRIORITY FOR SMALL HOLDINGS: IN ORDER TO AVOID N"NEW AND UNDESIRABLE CONCENTRATION OF RICHES", SMALL AND MEDIUM STOCKHOLDERS WILL RECEIVE PRIORITY. BONDS ISSUED

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TO MAJOR SHAREHOLDERS WILL HAVE LESS ADVANTAGES

AMORTIZATION AND INTEREST TERMS. COUNCIL OF MINISTERS WILL DETERMINE METHODS OF PAYMENT AND INTEREST RATES.

B. DETERMINATION OF VALUE: INDEMNIZATIONS WILL BE BASED ON FIRM'S NET ASSETS. STARTING POINT FOR DETERMINING VALUE OF COMPENSATION WILL BE BALANCE SHEET AT TIME OF NATIONALIZATION (IF AVAILABLE) OR AS OF DECEMBER 31, 1974. EXISTING INVENTORIES, RESERVES, FIXED ASSETS, DEBTS, AND OPERATING CONDITIONS WILL RECEIVE SPECIAL ANALYSIS. ADDITIONAL FACTORS WILL BE:

- FOR CORPORATIONS LISTED ON STOCK EXCHANGE, AVERAGE VALUE OF SHARE QUOTATIONS 1964-1974;
- FOR UNLISTED CORPORATIONS, AVERAGE VALUE OF DIVIDENDS PER SHARE 1964-1973;
- FOR NON-CORPORATIONS, NET PROFITS 1964-1973;
- FOR SHARES OFFERED TO PUBLIC UNDER PREMIUM PAYMENT, PAR VALUE OF SHARE.

ADJUSTMENTS WILL BE MADE FOR COMPANIES WITH LIMITED LIFE, INCLUDING THOSE ENJOYING CONCESSIONS OR SPECIAL PRIVILEGES.

C. SPECIAL CONDITIONS:

- SOME INSTITUTIONS (SOCIAL SECURITY FUNDS, PUBLIC COMPANIES, IMPORTANT PRIVATE FIRMS) MAY RECEIVE SPECIAL TREATMENT;
- BANK STOCKHOLDERS WHO ARE IN DEBT TO BANKS MAY RECEIVE "PROVISIONAL" COMPENSATION UNTIL VALIDITY OF DEBTS ARE CLARIFIED;
- COUNCIL OF MINISTERS CAN SET SPECIAL CONDITIONS FOR STOCKHOLDERS GUILTY OF FRAUDULENT ACTIVITIES; AND
- HOLDERS OF SHARES OFFERED TO PUBLIC UNDER PAYMENT OF PREMIUM, IF AUTHORIZED BY STATE, MAY RECEIVE AMOUNT ORIGINALLY PAID.

3. COMMENT: A. ALTHOUGH MANY DETAILS (E.G. AMORTIZATION, INTEREST RATES) REMAIN TO BE DEFINED, DECREE ALLOWS COUNCIL OF MINISTERS TO DECIDE THESE DETAILS WITHOUT REFERENCE TO THE LEGISLATURE. THIS PROCEDURE COULD ACCELERATE IMPLEMENTATION, WHICH LIKELY IS STILL UNCLASSIFIED

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SEVERAL MONTHS AWAY, AN WILL AVOID A HEATED PUBLIC DEBATE.

B. IN JULY 2 SPEECH, SECRETARY OF STATE FOR TREASURY REPORTEDLY SAID THAT FIDES AND FIA SHAREHOLDERS (SEE REFTTEL) WHO PRESUMABLY ARE LARGELY SMALL INVESTORS WILL RECEIVE SEVEN-YEAR BONDS AT TEN PERCENT INTEREST.
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